



Crl.O.P.(MD)No.2572 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD)No.2572 of 2024

K.Senthamarai

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Sivagangai District.
2. The Deputy Superintendent of Police,
Thiruppathur,
Sivagangai District.
3. The Inspector of Police,
All Women Police Station,
Thirupathur,
Sivagangai District.
4. The Deputy Superintendent of Police,
CBCID, Sivagangai District Police Office,
Sivagangai District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the first Respondent Police to transfer the investigation from the third Respondent Police in Crime No.5 of 2023 to the fourth Respondent Police or some other police to conduct the proper investigate.



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For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

The learned Counsel for the Petitioner submitted that the Petitioner is the de-facto Complainant in Crime No.5 of 2023 and he seeks direction against the first Respondent to transfer the investigation on the file of the third Respondent to the fourth Respondent or some other agency.

2. It is the contention of the learned Counsel for the Petitioner that the Petitioner immediately after missing of the girl, had lodged a complaint with the third Respondent. The third Respondent did not register any case. Therefore the Petitioner was forced to file a Habeas Corpus Petition in H.C.P.(MD)No.1022 of 2023 . The Respondents have stated that they have registered a case under Section 363 of I.P.C, but not included other offences. Subsequently, the Respondent Police had altered the offences including Offence under POCSO Act and the Child Marriage Retrain Act, 1929. Subsequently the daughter of the Petitioner was not produced before

<https://www.mhc.tn.gov.in/judis> any medical Officer regarding any sexual offences. It is the further



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contention of the learned Counsel for the Petitioner that the investigation is not at all proceeded fairly. Instead the third Respondent had threatened the Petitioner to withdraw the complaint. Therefore, the Petitioner seeking withdrawal of the investigation on the file of the third Respondent to any other Investigation Officer or agency.

3. The learned Government Advocate (Criminal side) on instructions from the second Respondent submitted that the daughter of the Petitioner was produced before the learned Judicial Magistrate, Sivagangai, and the learned Judicial Magistrate, Sivagangai had recorded the statement of the victim under Section 164 of Cr.P.C., wherein, the daughter of the Petitioner had stated that she apprehends danger to her life from her mother and she is not willing to go home with her mother. Therefore, the learned Judicial Magistrate, Sivagangai, has passed orders to detain her in Child Care Home and she is attending school from the Child Care Home. Also, the learned Government Advocate (Criminal side) vehemently objects to the submission of the learned Counsel for the Petitioner that the investigation had proceeded fairly and the investigation had completed.

4. The learned Government Advocate (Criminal side) on instructions from the Respondent Police submitted that the H.C.P.(MD)No.1022 of 2023



was filed by the same Petitioner, wherein, in the order in paragraph No. 2 and 3, the Hon'ble Division Bench had remarked as follows:

"3. We have perused the statement given by the Petitioner's daughter to the second Respondent, which is Self-explanatory. If there be some truth in what the Petitioner's daughter has stated in her statement, it would not be appropriate to compel her to live with her mother. Likewise, it would not be appropriate for us to direct her to live with the fourth Respondent herein, since she is a minor. In this background, we are of the view that the second Respondent would be directed to entrust Vaishnavi, the Petitioner's daughter to the Child Welfare Committee, 48 Colony, Sivagangai and a direction could be given to the Committee to afford the care and protection to the Petitioner's daughter till she becomes major."

Under these circumstances, this is nothing but the attempt by the Petitioner to derange the investigation.

5. In the light of the observation made by the Hon'ble Division Bench, the Respondent Police had not arrested the accused as it is a love affair. Therefore, the Hon'ble Division Bench had not directed the Respondent Police to arrest the accused. The Hon'ble Divisional Bench had directed the Investigation Officer to detain the victim in the Court under the Child Welfare Committee till she attains the age of majority. Therefore, the Respondent Police had taken steps to arrest the accused for the offence under the POCSO Act.



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6. The learned Government Advocate (Criminal side) submitted that the Respondent Police had completed the investigation and they are likely to file a report within a period of one week.

7. Recording the submission of the learned Government Advocate (Criminal side), this Criminal Original Petition is closed.

04.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
jbr

To

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Sivagangai District.
2. The Deputy Superintendent of Police,
Thiruppathur,
Sivagangai District.
3. The Inspector of Police,
All Women Police Station,
Thirupathur,
Sivagangai District.
4. The Deputy Superintendent of Police,
CBCID, Sivagangai District Police Office,
Sivagangai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

jbr

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